

DRAFT FINAL MEETING SUMMARY (Version 3.0)



B-MAG Kickoff Meeting

***IL DNR – Springfield, IL
September 29, 2003***

This document is not intended to be a meeting transcript, *per se*. It is a summary of key themes and some (though not all) of the background dialogue. The meeting summary's structure parallels that of the meeting agenda.

ATTENDEES

From the B-MAG Membership¹

Janet Agnoletti	Mark Harrison	Tom Skelly
Ken Alderson	Tom Heavisides	Cindy Skrukrud
Bill Compton	Martin Jaffe	Julie Sullivan
Terry Donohue	Alan Jirik	Ron Thomas
Jerry Ducay	Shawn Luesse	Mike Tryon
Dennis Duffield	Dennis McKenna	Beth Wentzel
Nancy Erickson	Alec Messina	Ed Weilbacher
Mike Fruth	Tom Muth	Marcia Willhite
Scott Goldstein	Joyce O'Keefe	
Heather Hampton-Knodle	Dennis Schmidt	

Adam R. Saslow (President of Consensus Solutions, Inc.) is the facilitator and Chris Davis of IL EPA is the note taker for this process.

Resource People

Richard Acker – Openlands Project	Tom Flattery – IDNR	Sensible Growth
Ron Drainer - IEPA	Bernie Killian – IEPA	Amy Walkenbach – IEPA
Dennis Dreher - NIPC	Barb Lieberoff - IEPA	Connie Tonsor - IEPA
Ashley Ferguson - IEPA	Scott Ristau – IEPA	Deb Williams - IEPA
	Ellen Shubart – Campaign for	

¹ B-MAG Members not in attendance included: Jonathan Goldman and Sam Santell

Observers

Rick Cobb (IEPA)
John Fuhr (IDNR)

Kristin Richards - Governor's
Office

Tammy Watson (IDNR)

MEETING HANDOUTS

Agenda

Draft Ground rules (version 3.0)

Contact List

Charge

FPA Procedures

FPA Flowchart

Connie Tonsor Document

MAPS:

- Figure 3-2. IEPA/IDNR Intensive Basin Survey Schedule, 1996-2000.,
- Major Watershed Areas and 14 River Basins,
- 33 River Basins (changed to watersheds),
- 14 River Basins and 33 Watersheds,
- 52 Watersheds 14 Major River Basins,
- 33 Watersheds and 52 Watersheds,
- NRCS Sub-watersheds: Count = 1,890,
- Major Watershed Areas

WELCOMING REMARKS AND REVIEW OF THE CHARGE

The meeting was called to order at 8:40 AM on September 29, 2003.

Tom Flattery – Illinois DNR

Mr. Flattery welcomed all to IL DNR and wished everyone a productive day and a successful dialogue.

Bernie Killian – IL EPA

Thanked the participants on behalf of both the Governor and Director Cipriano. IEPA sees this process as an effort to create a planning and protection system grounded in the law and considerate of the flexibility required to tailor smart policies of unique conditions.

He noted that the agency has struggled with the driver for this dialogue (FPA) for years. The old FPA process is a piece of a larger water quality protection effort. EPA needs to move to holistic watershed approach. EPA hopes to intelligently integrate a wide range of water quality planning effort with protection programs and land use management practices. The goal is to create a connective set of public policies that allow for protection of natural resources as well as economic development and growth. Our goal is also to help the citizens of the state of Illinois continue to protect its water quality.

If successful, this will mark paradigm shifts for the agency – a new way of working with stakeholders; a new way of planning and a new way of protecting the environment. As such, IEPA has to work closely with you all (stakeholders) to define approach to do this. IEPA hopes to implement what the group develops/defines.

ORIENTATION TO THE B-MAG DIALOGUE

Adam R. Saslow, President - Consensus Solutions, Inc.

Role of the Facilitator and other Housekeeping Elements

The facilitator is the “process guide” for next 5 or 6 months. My role is unlike what you saw in Springfield at the FPA Program Evaluation meeting. Moving forward the facilitator is:

- A service provider to the B-MAG;
- Neutral to substantive issues and outcomes;
- Not here for substantive expertise or counsel;
- Responsible to you for “memorialization” of this process via agreements, summaries and the such.

There was additional process oriented monologue concerning the agenda, length of the process, and optional tours. Some concerns were also raised regarding the pilot testing of basin-wide management in a single basin as opposed to multiple watersheds (Mr. Saslow indicated that this would be held over as an agenda item at the next meeting).

Concerning correspondence, there was some fear expressed that participants might miss or lose groupwide e-mails originating from Consensus Solutions.

RECOMMENDATION: Add consecutive number on emails, so that the group knows if they miss any emails.

Group Composition and Ground Rules

Adam asked, “Is anybody (constituency group, organization or unique person) missing from this dialogue and should they be designated a “participant” or a “resource?”²

Illinois Dept. of Transportation (IDOT)

Rationale: They tend to use a lot of land.

Outcome: There was no dissension here. (*EPA to invite the planning side of IDOT*)

American Planning Association (APA) – Illinois Chapter

Rationale: Planning realm is a little under-represented. Support for the national headquarters is split between Washington and Chicago and so there is substantial expertise in the region. State chapter representative is located in Champaign. APA is both public and private sector and unrelated to individual groups here. They bring a lot of information and resources. They are already thinking about this stuff.

Opposition: What can they bring that you as members aren’t already bringing?

Outcome: Consider APA as a resource (*Ron Thomas to contact*)

Consultants

Rationale: They have not yet been involved.

Opposition: Some feel that we are covered, but that we could use them for a resource.

Others indicated that this is a large group already. IDOT covers an area that we don’t have right now; we need difference between representation and resources. Adam mentioned that the current group are all primary stakeholders – as this process gains momentum, there are participants (primarily affected), interest groups – 3 representatives from each – critical mass – there is no constituency that can dominate, 2) resource expertise, 3) observers (public meetings, public invited to watch, not speak. Tightness necessary to continue process.

Outcome: Let the consulting community attend as observers. *Marcia Willhite will be a funnel of information to and from this constituency.*

DCEO

Rationale: Contacted as an initial invitee to provide economic development insight. They are the designated agency in the state for Local Planning Assistance Act. Mona Martin said that

² What is a “resource?” They can attend meetings. At the end of day, the participants may sign anything that is agreed upon, the resource person will not. In the beginning, the resource persons will be limited in input, later it may be loosened up. Voting is done by participants, not the resource people.

they would not be able to participate. Resource there are limited, not an interest issue.

Opposition: Their work is ultimately local government oriented and so their “perspective” may already be at the table.

Outcome: *Bernie Killian would contact his counterpart re: participation.* If they still were reticent we will add them as a resource.

NRCS – Ecosystem Partnerships

Rationale: They have experience in watershed planning. Work with SWCDs. Technical expertise and experience.

Outcome: *Tom Heavisides will be the liaison. Marcia Willhite will invite NRCS as an ancillary agency resource.*

ACE

Rationale: They have some interest in the Upper Mississippi.

Outcome: *Dr. Jaffe will invite them as a resource.*

US Environmental Protection Agency and Other Federal Folks

Rationale:

Opposition: Federal level might be better as resource people. Authority and implementation abilities but not stakeholders in outcomes. They have tools to implement – (e.g., watershed wide permitting). Speak on the topic as a resource.

Outcome: *Marcia Willhite will invite them all as a resources.*

ISWS

Rationale:

Outcome: Tom Heavisides mentioned that he has the IDNR to support him – including ISWS. Still, *Tom Heavisides will invite them as a resource.*

Illinois Manufactures Association

Rationale: One participant indicated that they are a “vital” element to the group - no less vital than realtors or homebuilders. They will be affected dramatically. Because they are big water resource users, we would be remiss to not include them. Alec mentioned that he is unable to represent that association. Bill Compton mentioned that his company belongs to IMA. Alan mentioned that he could not speak on their behalf.

Opposition: IMA is a good resource group. Good balance already in place. Can Alec, Bill or Alan be that voice?

Outcome: IMA would be asked to be a resource and might be used as substitutes to the

Industry meta-group³ if the opportunity presented itself. *Alec Messina would make the overture.*

Other Industry

Rationale: Sports, recreation and tourism were viewed as secondary tier and likely captured by various perspectives already at the table – specifically DCEO and DNR. The utility industry was mentioned as well though the participants felt that Tom Skelly could address these concerns – particularly with the American Waterworks Assn.

Council for BMPs

Rationale: The Council for BMPs is comprised of agricultural commodity groups.

Outcome: Use as a resource. *Heather Hampton-Knodle will contact.*

Metropolitan Mayors Caucus

Rationale: Heavy metropolitan flavor. Political resource

Outcome: *Ken Alderson will invite as a resource.*

Mr. Saslow closed the session by making the following points:

- This process is a bit different than what you are used to doing. A participant noted that “if it ain’t broke, don’t fix it.” Adam said that the BMAG is a large job with little time needs more structure to accomplish the goal.
- If Adam is pushing to fast, you must tell him.
- This must be a 31-way effort. Issues should be raised across and around the table issue and that the participants are responsible for the outcomes (not EPA, not Consensus Solution).

Adaptation and Adoption of the Groundrules⁴

Mr. Saslow mentioned that these ground rules must be agreed upon today. They will be adopted in draft form, revised following the meeting and signed as an order of business at the next B-MAG meeting.

The narrative below highlights some of the more controversial issues:

³ A “Meta-group” is defined as a constituency represented by three participant seats (e.g., local government, industry, environmental).

⁴ This discussion was split between morning and afternoon. For purposes of continuity within this meeting summary, all ground rule related issues are captured here. Adjustments to the Ground rule Document (version 3.0) are reflected in the Draft Final Ground rule Document.

Groundrule 3.1: Decision Rule Mr. Saslow mentioned that we need to strive for unanimity (100% consensus) but that sometimes the compromises needed may just not be possible. He recommended that something more than a met-group should be able to stop the process (and any recommendations or statements within the final product). Much of the discussion evolved around “proceeding to view agreement” when “no more than 3 people” were against a given element. The logic being that since most meta-groups had three seats at the table, “stopping the train” meant that a met-group needed to swing at least one other individual. This was the number formally adopted by the B-MAG for all decisions.⁵

Ground rule I.5 – Substitutions

Mr. Saslow strongly encouraged the group to adopt a “no substitutions” rule – meaning that if a B-MAG member missed a meeting, his/her vote would be lost. The reasoning for this is that when there ARE substitutions, there are several negative repercussions including:

- Lack of institutional memory residing with the substitute;
- Negative repercussions to existing group dynamics;
- Poor preparation of the substitute;
- Lack of commitment to prior agreements; and,
- Poor understanding of the trade-offs made to get to those agreements.

All yielding a debilitating “two steps forward, one step back” group dynamic – and one lethal to a compressed process.

The group largely rejected this as a ground rule. Those who objected to the “no substitution” rule indicated that valuable voices and perspectives would be lost in the unlikely event that a B-MAG participant could not make a meeting. To avoid the trappings noted by Mr. Saslow, participants will make full and significant efforts to ensure that any new substitute was well versed in both the issues to be addressed and the history of the B-MAG.

Mr. Saslow then encouraged the group to adopt a rule requiring “pre-designation” of an “alternate” so that if one person in a meta-group needed to miss a meeting, there would be some degree of inculcation and continuity residing with the pre-designated alternate. There was some dialogue concerning what a B-MAG seat meant (the person v. the institution). Most viewed a seat as belonging to the institution (though Mr. Saslow disagreed).

⁵ It was noted that non-supporting opinions would be recorded in meeting summaries and “minority,” “dissenting,” or “alternative” opinions would be included in our final product (consistent with rule II.8) – though also noted that the more “extra stuff” appended to the final agreements would water down its utility.

This too was rejected as the group agreed to delete rule I.5 in the draft ground rules version 3.0. As a cultural matter, the group agreed to:

- Move heaven and earth to be at the four meetings
- If you can't make it - Free substitution as to your representative
- If you can't find a representative, a proxy is allowed (limited one per person – no participant can hold more than one proxy).

B-MAG members agreed to make sure representatives are up to speed. To the extent possible, B-MAG participants will notify Adam Saslow as early as possible so that he too can help in their preparation and also add them to the e-mail lists. Further, Mr. Saslow (and the B-MAG) has “smack-down” authority⁶ and can use it at all times and particularly when a substitute is poorly prepared.

There was some consideration of “signature” on a final document. Mr. Saslow indicated that signature is usually part of a dialogue like this because of the investment in collaboration that it represents AND requires. One participant recommended a compromise to list those that support the report, but may be unwilling to sign.

This issue was not resolved. Among the sentiments expressed was a concern that if a participant “didn't sign the report that we don't support it. We might support it, but be unable to sign.” This might qualify as an abstention and as outlined in the ground rules the entity would be in violation of the groundrules. That said, such persons might now elect to be removed from the group.⁷ If this is the case, the entity might want to step aside and volunteer as a resource.

Adaptation and Adoption of the Charge

One participant asked, “Why are we moving fast on such an important issue? Will we short circuit our work?” Ms. Willhite responded that the sooner that we design it, the sooner that we can move forward. She hopes that we can stay focused, but throughout, EPA will be here to listen and talk. EPA hopes to implement a framework for planning and water quality protection on a pilot basis, then on to adapt it incrementally for the rest of the state. Mr.

⁶ Note that this was a term of art developed by the participants.

⁷ No one volunteered to step aside.

Saslow added that the intellectual firepower we have here can not commit to a longer process. Let's hit it hard and get it done – if we can.

Suggestions to Ms. Cipriano for re-consideration/revision of the Charge included:

1. Add “local government” to the second bullet;
2. Second to last paragraph “uniquely responsible” gives Adam a bit too much power. Strike the second sentence in the second to last paragraph. Also the first phrase in the next sentence. The section should now begin with “The facilitator may move... “
3. One participant wants it stated more clearly that the B-MAG should look for overlap and duplication and make recommendations to eliminate them. Another participant agreed that this would be all right IF there was a commitment to ever improving water quality in the state.
4. The goal of this process is higher water quality (and added less regulatory)

Language similar to that which follows was considered agreeable to all: “To eliminate overlaps and duplications while at the same time ensuring better water quality protection and greater efficiencies in water quality planning and management.”

Amended as such, the B-MAG accepted their charge. *Ms. Willhite agreed to ask the Director to amend accordingly and re-distribute as a Final Charge.*

QUICK FIX UPDATE – WHAT IS NEW IN FPA’S

Marcia Willhite – Illinois EPA

IEPA contracted to have the FPA process evaluated. Among the recommendations were that:

- IEPA needed to make the current process as transparent as possible;
- IEPA should review agreements with IDA and IDNR, see if tune-ups were needed for Facility Planning.
- Review how IEPA dealt with conflicts and look for best options.

Ms. Willhite distributed narrative description and flowcharts. Regional Planning Commissions have additional steps at the local level. *B-MAG participants were asked to review them and let IEPA know if there are any discrepancies.*

Updates: IDA and IEPA have a current agreement for FPA process. It describes well what is

required to implement process. Input welcome. IDNR and IEPA are currently revising an agreement that includes T & E species, focusing specifically on the permit process. This does not normally include the FPA process. IDNR has not been a regular partner in the review of FPA's. IEPA is open to thoughts on this issue.

The program evaluation had specific ideas on conflict resolution on FPA changes. IEPA has not implemented any of these recommendations to date. Considering NIPC's history with FPAs and NIPC supplied recommendations to IEPA. Ron Thomas then added that NIPC had developed a "think piece" focusing on alternative dispute resolution system. It contains a look at issues such as transportation and land use disputes. Other states have used this system to their benefit. We should consider. Next steps for NIPC – 1) consider demonstration of the application of alternative dispute resolution or 2) conducting a best practices workshop. Ms. Willhite added that conflict resolution rules are in place, but they are difficult to work with. Issues are not always environmental, but social and economic instead.

One participant asked if any analysis done on what parts of FPA do work and need to be covered in the new system (if the FPA process were phased out). Watershed approach makes sense, but does FPA system provide a laundry list that we need to cover. Ms. Willhite indicated that this was one of the areas that the B-MAG should delve into.

Further, House Bill 1250 was passed in the last session. By August, 2004 IEPA needs to develop rules related to Facility Planning taking into consideration other appropriate information from outside groups, watershed planning groups, etc. The task of the B-MAG is not to develop the rules. IEPA will work with the groups around the table to do that work aside from this effort.

WATERSHEDS, BASINS AND OTHER TERMS

Amy Walkenbach – Illinois EPA

Ms. Walkenbach distributed several maps.

There was then a broad discussion of attributed that might be ideal for evaluating and selecting a pilot watershed. Among the points raised:

- Social interests and economics;
- The Fox River might be spot because there's urban interest and recreation; and,
- Pick another rural watershed for a sediment issue.

Ms. Walkenbach mentioned that EPA wants to make sure that the watershed picked includes an area with FPA issues to make sure the system works.

One participant noted that in selecting the pilot watershed, the “7-level” is clearly too big. The group seemed to agree with this sentiment.

Ms. Walkenbach further noted that the B-MAG is charged with developing a framework for issues to be discussed and implemented by a group (perhaps similarly balanced) developed on the local level. The ultimate local level plan will be developed within a B-MAG template as a plan that “answers back” to the B-MAG. Conceivably there could be some cross-pollination of participation seeing that the B-MAG participants hail from all over the state. The B-MAG, though, is an umbrella organization that may “supervise” the entire delivery system. Ms. Willhite added that watershed planning is necessary for a variety of reasons, but EPA’s main goal is the protection of water quality. This group should develop the ideal framework independent of real or perceived budget constraints

Ms. Walkenbach introduced the Ecosystem Partnerships Program. One participant asked, “How much of the Ecosystem Partnerships cover the private sector and landowners who derive their primary income from working the land?” *Tammy Watson will provide a listing of Ecosystem Partnerships and their participants.* She indicated that IDNR is doing a Strategic Sub-watershed planning process (8-10 week process) for each of the Ecosystem Partnerships.

Other examples may exist in other States including Texas and North Carolina. There is someone in Chicago who is a past planner from North Carolina (Deanna Doohaluk). *Scott Goldstein and/or IEPA will try to locate her and invite her to the October Meeting.*

CURRENT REGULATORY STRUCTURES

Connie Tonsor— Illinois EPA

Postponed until a future meeting

CRITERIA FOR SELECTING A WATERSHED – DEFINING KEY CHARACTERISTICS

General Discussion

Characteristics of an Ideal watershed

Flipchart Recap

- FPA (w/point source and non-point source issues)
- FPA are potentially expanding (conflict) (growth areas)
- Sophisticated planning process already in place
- No planning in place
- Agriculture vs. Urban
- Sewer capacity almost fully utilized
- Structural mechanisms and authorities for implementation (county, regional, state).
Somebody resolves the conflict that FPAs had created when there is only a voluntary system in place.
- Sewer service area is likely
- Endangered and threatened species
- Issues of farmland protection
- Ecosystem health – protection vs. restoration; high quality v. impaired waters
- Available Local Resources
 - Modeler
 - Hydrologist
 - Water quality specialist
- Include already developed areas as a part of watershed for testing.
- NIPC (covered by process) and Non-NIPC (not covered by process)
- Area with FPA conflict
- Willingness to participate in process
- Home rule watershed
- Population density (diversity in population density)
- Drainage Districts or Levee Districts

Other highlights of the discussion included:

- Perhaps we should select two watersheds with entirely different issues.
- Do not limit ourselves to high FPA controversy zones. We should look at some areas that have growth issues without the FPA controversy; it might be good to select a watershed that does not have a sophisticated planning process already in place.
- What structural mechanisms (authorities) are out there for us to use and who has the authority to go through that structure? (Connie's discussion was to address some of this). What can the watershed do without authority?
- FPA addresses wastewater service plus more peripheral issues. We need to create a

process to discuss and deal with conflict. Pilot test the system to inform IEPA's processes for dealing with water quality issues and expanding service when conflicts arise.

- Is the new model a top down (IEPA dictating to locals) or a bottom up (locals driving EPA) process? Ms. Willhite responded that the B-MAG will define what the process is.
- What about scale of watersheds (e.g., Blackberry Creek vs. the Lower Fox area)? NIPC's been doing FPA for decades now, this is a known process to local players. What happens if you do a pilot in a known area vs. a non-known area? In an unknown area what kind of confusion will occur? Ms. Willhite responded that this is one of the areas that we need to figure out. Some areas are flexible, some will be required. Fair point, we don't want to make it more confusion than it already is (or burdensome). How about postmortem? In many other systems such as these, stakeholder groups are put in place (facility service area extension).
- We can develop a plan but we need the authority to pilot it. Does the authority exist? Ms. Willhite responded that we need to define the authorities. Connie Tonsor said that Section 303(e) covers the old Section 208, etc... Section 4 of the Clean Water Act. IEPA has authority implement 303(e) and to engage local government. Connie distributed a regulatory summary to the B-MAG.⁸

Mr. Saslow asked for five volunteers to form a Pilot Watershed Selection Workgroup before the October meeting. Heather Hampton-Knodle, Cindy Skrukrud, Marcia Willhite, Ron Thomas and Alec Messina volunteered.⁹

THE ROAD MAP AHEAD¹⁰

All B-MAG participants are asked to preserve the following dates on their schedules as these dates are firm. To the extent possible, we would like to build in optional half day "field trips" and/or B-MAG dinners or breakfasts into the day prior.

October, 27, 2003 – US EPA Building, Chicago

⁸ Connie's handout – The Illinois EPA shall have the authority, consistent with Section 5(e) ... and for purposes of Section 303(e) of the Federal Water Pollution Control Act: "to engage in planning processes and activities and to develop plans in cooperation with units of local government, state agencies and officers, and other appropriate persons in connection with the jurisdiction or duties of each such unit, agency, officer or person.

⁹ A conference call has been scheduled for 10/21.

¹⁰ These dates and venues were selected immediately after the adjournment of this meeting (based upon previously solicited stakeholder availability) but are reported here for convenience.

November, 24, 2003 – Kane County or vicinity
December, 12, 2003 – Bloomington, IL (Farm Bureau)
January, 12 and 13 – Springfield, IL (Host and Location TBA)

WRAP UP, NEXT STEPS, AND ADJOURN

The meeting was adjourned at 4:35 PM.